

111TH CONGRESS
1ST SESSION

S. 1359

To provide United States citizenship for children adopted from outside the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2009

Ms. LANDRIEU (for herself and Mr. INHOFE) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To provide United States citizenship for children adopted from outside the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Foreign Adopted Chil-
5 dren Equality Act” or the “FACE Act”.

6 **SEC. 2. CITIZENSHIP FOR CHILDREN ADOPTED FROM OUT-**
7 **SIDE THE UNITED STATES.**

8 (a) IN GENERAL.—Section 320(b) of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1431(b)) is amended
10 to read as follows:

1 “(b) CITIZENSHIP FOR CHILDREN ADOPTED FROM
2 OUTSIDE THE UNITED STATES.—

3 “(1) IN GENERAL.—A child born outside the
4 United States automatically becomes a citizen of the
5 United States if the Secretary of State is satisfied
6 that all of the following conditions are met:

7 “(A) The child is adopted by a parent who
8 is a citizen of the United States.

9 “(B) The child is younger than 18 years of
10 age.

11 “(C) It is determined that each adopting
12 parent is eligible and suitable to adopt the
13 child, including determining that the parent is
14 able to support the child and has undergone an
15 appropriate criminal background check.

16 “(D) Prior to the adoption, the child was
17 an unmarried individual younger than 18 years
18 of age—

19 “(i)(I) whose biological parents (or
20 parent, in the case of an individual who
21 has 1 sole or surviving parent) or other
22 person or institution that retains legal cus-
23 tody of the individual—

24 “(aa) have freely given their writ-
25 ten irrevocable consent to the termi-

1 nation of their legal relationship with
2 the individual, and to the individual's
3 emigration and adoption and that
4 such consent has not been induced by
5 payment or compensation of any kind
6 and has not been given prior to the
7 birth of the individual;

8 “(bb) are unable to provide prop-
9 er care for the individual, as deter-
10 mined by the competent authority of
11 the individual's residence; or

12 “(cc) have voluntarily relin-
13 quished the individual to the com-
14 petent authorities pursuant to the law
15 of the individual's residence; or

16 “(II) who, as determined by the com-
17 petent authority of the individual's resi-
18 dence—

19 “(aa) has been abandoned or de-
20 serted by the individual's biological
21 parents or legal guardian; or

22 “(bb) has been orphaned due to
23 the death or disappearance of the in-
24 dividual's biological parents or legal
25 guardian; and

1 “(ii) with respect to whom the Sec-
2 retary of State—

3 “(I) is satisfied that the proper
4 care will be furnished the individual if
5 admitted to the United States;

6 “(II) is satisfied that the purpose
7 of the adoption is to form a bona fide
8 parent-child relationship and that the
9 parent-child relationship of the indi-
10 vidual and the biological parents has
11 been terminated (and in carrying out
12 both obligations under this subpara-
13 graph, the Secretary of State, in con-
14 sultation with the Secretary of Home-
15 land Security, may consider whether
16 there is a petition pending to confer
17 immigrant status on 1 or both of the
18 biological parents);

19 “(III) is satisfied that there has
20 been no inducement, financial or oth-
21 erwise, offered to obtain the consent
22 nor was it given before the birth of
23 the individual; and

24 “(IV) in consultation with the
25 Secretary of Homeland Security, is

1 satisfied that the individual is not a
2 security risk.

3 “(2) CITIZENSHIP FROM BIRTH.—An individual
4 who becomes a citizen of the United States pursuant
5 to paragraph (1) shall be deemed to have been a cit-
6 izen of the United States at birth and shall be
7 issued a United States Consular Report of Birth.

8 “(3) SPECIAL RULE FOR ADOPTEES WHO ARE
9 OLDER THAN 18 YEARS OF AGE.—

10 “(A) IN GENERAL.—A person described in
11 subparagraph (B) shall be deemed to have been
12 a citizen of the United States at birth after the
13 approval of an application filed within the
14 United States or with a United States Em-
15 bassy.

16 “(B) PERSON DESCRIBED.—A person de-
17 scribed in this clause is a person who—

18 “(i) is older than 18 years of age;

19 “(ii) was born outside the United
20 States and was adopted by a parent who is
21 a citizen of the United States before the
22 date on which the person reached 18 years
23 of age; and

24 “(iii) was described in subparagraph
25 (E), (F), or (G) of section 101(b)(1).

1 “(4) NO LIABILITY FOR PRIOR TAXES.—An in-
 2 dividual who becomes a citizen of the United States
 3 pursuant to paragraph (1) or (3) may not be liable
 4 for any taxes that the individual would have paid to
 5 the United States as a citizen of the United States
 6 before the date on which the individual becomes
 7 such a citizen.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) HEADING.—The heading of section 320 of
 10 the Immigration and Nationality Act (8 U.S.C.
 11 1431) is amended to read as follows:

12 “CHILDREN BORN OUTSIDE THE UNITED STATES;
 13 CONDITIONS UNDER WHICH CITIZENSHIP IS ACQUIRED”.

14 (2) SECTION 301 OF THE IMMIGRATION AND NA-
 15 TIONALITY ACT.—Section 301 of the Immigration
 16 and Nationality Act (8 U.S.C. 1401) is amended—

17 (A) in subsection (g), by striking “and” at
 18 the end;

19 (B) in subsection (h), by striking the pe-
 20 riod at the end, inserting a semicolon and
 21 “and”; and

22 (C) by adding at the end the following:

23 “(i) a person deemed a citizen at birth pursuant to
 24 section 320(b).”.

1 (c) CLERICAL AMENDMENT.—The table of contents
 2 of the Immigration and Nationality Act is amended by
 3 striking the item relating to section 320 and inserting the
 4 following:

“Sec. 320. Children born outside the United States; conditions under which
 citizenship acquired.”.

5 **SEC. 3. NONIMMIGRANT STATUS FOR CHILDREN BROUGHT**
 6 **TO THE UNITED STATES TO BE ADOPTED.**

7 Section 101(a)(15) of the Immigration and Nation-
 8 ality Act (8 U.S.C. 1101(a)(15)) is amended—

9 (1) in subparagraph (U), by striking “or” at
 10 the end;

11 (2) in subparagraph (V), by striking the period
 12 at the end and inserting “; or”; and

13 (3) by adding at the end the following:

14 “(W) an individual brought to the United
 15 States as a child to be adopted by a citizen of
 16 the United States.”.

17 **SEC. 4. APPEAL OF NOTICE OF INTENT TO DENY AN ADOP-**
 18 **TION.**

19 (a) REQUIREMENT TO PROVIDE OPPORTUNITY TO
 20 APPEAL.—If the Secretary of State determines that a cov-
 21 ered individual is not eligible to be adopted by a citizen
 22 or national of the United States on the basis that the con-
 23 ditions described in subsection (c) are not met, the Sec-
 24 retary shall provide—

1 (1) a notice of intent to deny the adoption of
2 the child to such citizen or national of the United
3 States; and

4 (2) an opportunity for such citizen or national
5 to appeal the determination.

6 (b) COVERED INDIVIDUAL DEFINED.—In this sec-
7 tion, the term “covered individual” means an individual
8 who—

9 (1) is younger than 18 years of age;

10 (2) was born in a foreign country; and

11 (3) is seeking to be adopted by a parent who is
12 a citizen or national of the United States.

13 (c) CONDITIONS FOR ADOPTION.—The conditions de-
14 scribed in this subsection are met if—

15 (1) the covered individual’s biological parents
16 (or parent, in the case of an individual who has 1
17 sole or surviving parent) or other person or institu-
18 tion that retains legal custody of the covered indi-
19 vidual—

20 (A) have freely given their written irrev-
21 ocable consent to the termination of their legal
22 relationship with the individual, and to the indi-
23 vidual’s emigration and adoption and that such
24 consent has not been induced by payment or

1 compensation of any kind and has not been
2 given prior to the birth of the individual;

3 (B) are unable to provide proper care for
4 the individual, as determined by the competent
5 authority in the country of the individual's resi-
6 dence; or

7 (C) have voluntarily relinquished the indi-
8 vidual to the competent authorities pursuant to
9 the law of the country of the individual's resi-
10 dence; or

11 (2) the covered individual, as determined by the
12 competent authority in the country of the individ-
13 ual's residence—

14 (A) has been abandoned or deserted by the
15 individual's biological parents or legal guardian;
16 or

17 (B) has been orphaned due to the death or
18 disappearance of the individual's biological par-
19 ents or legal guardian.

20 **SEC. 5. RULE OF CONSTRUCTION.**

21 Nothing in this Act, or in any amendment made by
22 this Act, may be construed to—

23 (1) abrogate any citizenship rights provided to
24 an adoptee by the adoptee's country of origin; or

1 (2) nullify the facts of the adoptee's birth his-
2 tory.

3 **SEC. 6. SENSE OF CONGRESS.**

4 It is the sense of Congress that the government of
5 each foreign country from which children are adopted by
6 citizens of the United States should provide documenta-
7 tion of the adopted children's original birth history to the
8 adoptive family in accordance with the laws of such coun-
9 try.

○